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BY ECF AND FAX

Honorable Cheryl L. Pollak
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
Fax: (718) 613-2365

Re: Audi Wilson v. City of New York, et al., 10-CV-04057 (RRM)(CLP)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department assigned to defend the City of New York in the above-referenced matter. I am writing with the Court's permission from the June 22, 2011 Status Conference, in which Your Honor permitted me to make a letter application for sanctions against plaintiff's counsel, Sema Felix Ngati, Esq., for his failure to appear for a second conference in this matter in violation of FRCP 16(f).

By way of background, this lawsuit was filed on September 7, 2010. I wrote to Your Honor asking for an enlargement of time for the City to respond to the complaint from November 18, 2010 until January 18, 2011 so that we could obtain the executed § 160.50 release and medical release from plaintiff, investigate the allegations, and intelligently respond to the complaint. On January 11, 2011, I wrote a second letter application to Your Honor for a second enlargement of time because plaintiff had failed to provide me with any releases. I asked for a sixty day enlargement from the time our office received the releases to respond to the complaint. On January 13, 2011, our office received the executed 160.50 release, but we did not receive the completed executed medical release until June 8, 2011.

Your Honor scheduled an Initial Conference on March 29, 2011, however, Mr. Ngati failed to appear on that date. Your Honor rescheduled the Initial Conference for March 31, 2011, in which all parties were present. At that time, Your Honor scheduled a Status Conference for June 22, 2011, because Mr. Ngati was not aware of many of the facts of the underlying arrest. On June 22, 2011, Mr. Ngati failed to appear for the status conference in this matter. I asked

whether Your Honor would permit me to write to the Court to request sanctions under Rule 16(f)(1)(A), and Your Honor permitted me to do so. I have made many efforts to reach out to Mr. Ngati to inform him of my intention to write to the Court and request sanctions, including sending two electronic mail messages on June 22nd and June 28th, as well as, sent a letter via first class mail, and tried to call but I was not able to leave a voicemail message. As of the writing of this letter, I still have not heard back from Mr. Ngati.

Therefore, for the foregoing reasons, I request that Your Honor issue sanctions against Mr. Ngati for his violation of FRCP 16(f)(1)(A). As explained above, Mr. Ngati missed two court conferences. I attended each of these conferences and spent considerable of my time, not only waiting for Mr. Ngati to appear but also traveling to and from Court and Your Honor had to reschedule in each instance.

Thank you in advance for your consideration of this request.

Respectfully submitted,

/s/

Vicki B. Zgodny
Assistant Corporation Counsel
Special Federal Litigation Division

cc: Sema Felix Ngati, Esq. (VIA ECF)
Attorney for the Plaintiff